APPENDICES

APPENDIX A

The Rules of Practice for the Federal Trade Commission (August 1963) provide as follows:

"Subpart D—Investigations

§1.31 Investigational policy.—The Commission encourages voluntary cooperation in its investigations. Where the public interest requires, however, the Commission may, in any matter under investigation, invoke any or all of the compulsory processes authorized by law."

APPENDIX B

The Federal Trade Commission Act, 15 U.S.C. 46, in pertinent part provides as follows:

"Sec. 6. That the commission shall also have power—

(b) To require, by general or special orders, corporations engaged in commerce, excepting banks, and common carriers subject to the Act to regulate commerce, or any class of them, or any of them, respectively, to file with the commission in such form as the commission may prescribe annual or special, or both annual and special, reports or answers in writing to specific questions, furnishing to the commission such information as it may require as to the organization, business, conduct, practices, management and relation to other corporations, partnerships, and individuals of the respective corporations filing such reports or answers in writing. Such reports and answers shall be made under oath, or otherwise, as the commission may prescribe, and shall be filed with the commission within such reasonable period as the commission may prescribe, unless additional time be granted in any case by the commission.

• • •

"Sec. 9 Evidence. Witness. Testimony. Mandamus To Enforce Obedience To Act (38 Stat. 722; 15 U.S.C.A., sec. 49.)

"Sec. 9. That for the purposes of this Act the commission, or its duly authorized agent or agents, shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any corporation being investigated or proceeded against;

• • •

"No person shall be excused from attending and testifying or from producing documentary evidence before the commission or in obedience to the subpoena of the commission on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to criminate him or subject him to a penalty or forfeiture. But no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify, or produce evidence, documentary or otherwise, before the commission in obedience to a subpoena issued by it: *Provided,* That no natural person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying."

APPENDIX C

IN THE
UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

ADDENDUM TO PETITIONER'S BRIEF.

Comes now petitioner and respectfully brings to the attention of this Court the following developments since the printing of petitioner's brief filed on April 23, 1965.

On April 16, 1965 petitioner's counsel, while at the Washington offices of the Federal Trade Commission on other matters, was asked by Commission's attorney W. Risque Harper whether petitioner had used the exchange of correspondence between petitioner's counsel and FTC complaint counsel Stanley M. Lipnick (Appendices A and B to petitioner's main brief), in its brief to be filed with this Court. The FTC attorney was advised that petitioner had brought the correspondence to the attention of this Court in its brief in its argument that the Federal Trade Commission had abused its discretion in refusing to temporarily stay the order entered in the instant case and undertake any investigation of petitioner's competitors. (See pp. 65-69 petitioner's main brief).

When petitioner's counsel returned to his offices after the above conversation, he received on April 21, 1965, after petitioner's brief had been sent to the printer, a letter dated April 19, 1965 wherein FTC complaint counsel, Stanley M. Lipnick, advised that the reason the

FTC would not *now* undertake any industry-wide investigation of petitioner's competitors was that such an investigation would conflict with an investigation now being conducted by the Antitrust Division of the Department of Justice.

Respectfully submitted,

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